



Atty. Dkt. No. 089835-0110

**DECLARATION AND POWER OF ATTORNEY**

As a below named inventor, I HEREBY DECLARE:

THAT my residence, post office address, and citizenship are as stated below next to my name;

THAT I believe I am the original, first, and sole inventor (if only one inventor is named below) or an original, first, and joint inventor (if plural inventors are named below or in an attached Declaration) of the subject matter which is claimed and for which a patent is sought on the invention entitled

**SYSTEM AND METHOD FOR ASSEMBLING A PACKAGE WITH FLIP-TOP**

the specification of which (check one)

  X   is attached hereto.

       was filed on        as United States Application Number       .

THAT I do not know and do not believe that the same invention was ever known or used by others in the United States of America, or was patented or described in any printed publication in any country, before I (we) invented it;

THAT I do not know and do not believe that the same invention was patented or described in any printed publication in any country, or in public use or on sale in the United States of America, for more than one year prior to the filing date of this United States application;

THAT I do not know and do not believe that the same invention was first patented or made the subject of an inventor's certificate that issued in any country foreign to the United States of America before the filing date of this United States application if the foreign application was filed by me (us), or by my (our) legal representatives or assigns, more than twelve months (six months for design patents) prior to the filing date of this United States application;

THAT I have reviewed and understand the contents of the above-identified specification, including the claim(s), as amended by any amendment specifically referred to above;

THAT I believe that the above-identified specification contains a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention, and sets forth the best mode contemplated by me of carrying out the invention; and

THAT I acknowledge the duty to disclose to the U.S. Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, §1.56.

I HEREBY CLAIM foreign priority benefits under Title 35, United States Code §119(a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate, or §365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below any foreign application for patent or inventor's

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certificate or of any PCT international application having a filing date before that of the application on which priority is claimed.

| Prior Foreign Application Number | Country | Foreign Filing Date | Priority Claimed? | Certified Copy Attached? |
|----------------------------------|---------|---------------------|-------------------|--------------------------|
|                                  |         |                     |                   |                          |
|                                  |         |                     |                   |                          |
|                                  |         |                     |                   |                          |

I HEREBY CLAIM the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below.

| U.S. Provisional Application Number | Filing Date |
|-------------------------------------|-------------|
|                                     |             |
|                                     |             |
|                                     |             |

I HEREBY CLAIM the benefit under Title 35, United States Code, §120 of any United States application(s), or § 365(c) of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

| U.S. Parent Application Number | PCT Parent Application Number | Parent Filing Date | Parent Patent Number |
|--------------------------------|-------------------------------|--------------------|----------------------|
|                                |                               |                    |                      |
|                                |                               |                    |                      |
|                                |                               |                    |                      |

I HEREBY APPOINT the registered attorneys and agents at Customer Number 27433

**27433**

PATENT TRADEMARK OFFICE

to have full power to prosecute this application and any continuations, divisions, reissues, and reexaminations thereof, to receive the patent, and to transact all business in the United States Patent and Trademark Office connected therewith.

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I request that all correspondence be directed to:

Marshall J. Brown  
FOLEY & LARDNER  
Customer Number: 27433



27433

PATENT TRADEMARK OFFICE

Telephone: (312) 832-4358  
Facsimile: (312) 832-4700

I UNDERSTAND AND AGREE THAT the foregoing attorneys and agents appointed by me to prosecute this application do not personally represent me or my legal interests, but instead represent the interests of the legal owner(s) of the invention described in this application.

I FURTHER DECLARE THAT all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Name of first inventor

Petar Tisma

Residence

2729 Maynard Ct. Glenview, IL 60025

Citizenship

USA

Post Office Address

2729 Maynard Ct. Glenview, IL 60025

Inventor's signature

Date

Name of second inventor

Yugoslav Kokotovic

Residence

1463 CIRCLE CT. ELK GROVE IL 60007

Citizenship

Post Office Address

1463 CIRCLE CT. ELK GROVE, IL 60007

Inventor's signature

Yugoslav Kokotovic

Date

09.30.03

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|                         |  |
|-------------------------|--|
| Name of third inventor  | Radoje Bajic                             |
| Residence               | 1026 Fisher Addison, IL 60101            |
| Citizenship             | USA                                      |
| Post Office Address     | 1026 Fisher Addison, IL 60101            |
| Inventor's signature    | Radoje Bajic                             |
| Date                    | 06.08.03                                 |
| Name of fourth inventor | Stevan Tisma                             |
| Residence               | 1301 Beckett Circle Schaumburg, IL 60173 |
| Citizenship             |  |
| Post Office Address     | 1301 Beckett Circle Schaumburg, IL 60173 |
| Inventor's signature    |  |
| Date                    |  |



Atty. Dkt. No. 089835/0110

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Tisma et al.  
Title: SYSTEM AND METHOD FOR  
ASSEMBLING A PACKAGE  
WITH A FLIP-TOP  
Appl. No.: 10/633,337  
Filing Date: August 1, 2003  
Art Unit: 3721

|   |
|---|
| <p><b>CERTIFICATE OF MAILING</b><br/>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Commissioner for Patents, PO Box 1450, Alexandria, Virginia 22313-1450, on the date below.</p> <p><u>Krisse Simoni</u><br/>(Printed Name)</p> <p><u>Krisse Simoni</u><br/>(Signature)</p> <p><u>March 16, 2004</u><br/>(Date of Deposit)</p> |
|---|

**PETITION PURSUANT TO 37 C.F.R. § 1.47**

Mail Stop MISSING PARTS  
Commissioner for Patents  
PO Box 1450  
Alexandria, Virginia 22313-1450

Sir:

Pursuant to 37 C.F.R. § 1.47, Delaware Capital Formation, Inc., a Delaware corporation having a principal place of business at 1403 Foulk Road, Suite 102, Wilmington, Delaware 19803 ("Assignee"), hereby petitions the Commissioner of the U.S. Patent & Trademark Office to accept the above-referenced application without the signature of two inventors, Stevan Tisma and Petar Tisma, on the grounds that both inventors have refused to sign an inventor's oath and declaration.

The last known addresses for the above-identified inventors are as follows:

Stevan Tisma  
1301 Beckett Circle  
Schaumburg, Illinois 60173

03/22/2004 AAD0F01 00000083 061450 10633337  
01 FC:1253 305.00 DA 645.00 DP

Petar Tisma  
2729 Maynard Ct.  
Glenview, Illinois 60025

The present application was originally filed on August 1, 2003, with four inventors. Two of the inventors, Jugoslav Kokotovic and Radoje Bajic, assigned their rights in the application to

Assignee dated December 30, 2003. A copy of this assignment is included with this Petition. Because these two inventors have assigned their rights to Assignee, Assignee has a sufficient proprietary interest in the present application to file this Petition.

Since the filing of the present Application, both Steven Tisma and Petar Tisma have repeatedly refused to sign an inventor's oath and declaration. The attached affidavit of Mark Oldenburg describes the circumstances surrounding these individuals' repeated refusals to sign these documents.

On October 3, 2003, the Commissioner issued a Notice to File Missing Parts of the non-provisional application, noting that the oath and declaration was unsigned. As described above, Assignee has still been unable to persuade Steven Tisma or Petar Tisma to sign the oath and declaration. Because Assignee has until April 3, 2004 to file the oath and declaration, without the granting of this petition, Assignee will suffer irreparable harm.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1450. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1450.

Respectfully submitted,

Date

March 16, 2004

By

Marshall J. Brown

FOLEY & LARDNER LLP  
Customer Number: 27433  
Telephone: (312) 832-4358  
Facsimile: (312) 832-4700

Marshall J. Brown  
Attorney for Applicants  
Registration No. 44,566

**AFFIDAVIT OF MARK OLDENBURG**

I, **MARK OLDENBURG**, having been duly sworn, depose and state as follows:

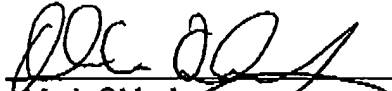
1. I am the Engineering Manager of SWF Companies, Tisma Division ("Tisma").
2. On August 1, 2003, the law firm of Foley & Lardner filed a patent application for Tisma entitled "System and Method for Assembling a Package With a Flip-Top." This application has since been accorded the serial number 10/633,337 and an official filing date of August 1, 2003.
3. During the preparation of this patent application, it was determined that Steven Tisma, a former Tisma employee, and Petar Tisma, a current employee should have been listed as inventors on the above-referenced application.
4. On or about August 1, 2003, Bob Williams, Vice President of SWF Companies, Tisma Division, met in person with Steven Tisma regarding the above-referenced application. During this conversation, It was requested that Steven Tisma sign an inventor's Declaration/Power of Attorney for the application, as well as other documentation. Steven Tisma indicated that he would sign the requested documentation. Shortly thereafter, a copy of the application, an unexecuted Declaration/Power of Attorney, and Assignment were sent to Steven Tisma.
5. Shortly after the initial conversation with Steven Tisma, Steven Tisma was questioned regarding his execution of the Declaration/Power of Attorney and Assignment. During this conversation, Steven Tisma indicated that he would not execute these materials.
6. As of February 24, 2004, I have not received any new correspondence from Steven Tisma, and I have not received an executed copy of the Declaration/Power of Attorney or the Assignment.
7. Since August 1, 2004, I have repeatedly asked Petar Tisma to sign the Declaration/Power of Attorney and Assignment documents. In every instance, Petar Tisma has refused to sign either document. My most recent attempt to have Petar Tisma sign these documents was on Tuesday, February 24, 2004.

## FURTHER AFFIANT SAYETH NOT.

Dated:

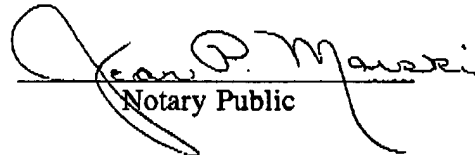
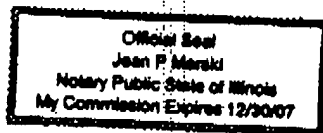
2/3/04

By:

  
Mark Oldenburg

On this \_\_\_\_\_ day of February 2004, before me, a Notary Public, appeared **MARK OLDENBURG**, to me personally known to be the person signing this Affidavit, who, being first duly sworn, on oath deposes and states that he is the person whose signature appears above and he attests to the fact that the statements made above are true and complete to the best of his knowledge and belief.

Seal:

  
Notary Public



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**ASSIGNMENT - WORLDWIDE**

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each undersigned inventor (hereinafter referred to as "ASSIGNOR") has sold, assigned, and transferred, and by these presents hereby sells, assigns, and transfers, unto

Delaware Capital Formation, Inc.  
1403 Foulk Road, Suite 102  
Wilmington, Delaware 19803

(hereinafter ASSIGNEE) its successors and assigns, the full and exclusive right, title and interest for the United States, its territories and possessions, and all foreign countries in and to this invention relating to

**SYSTEM AND METHOD FOR ASSEMBLING A PACKAGE WITH FLIP-TOP**

as set forth in this United States Patent Application

check one    ☐ executed concurrently herewith  
                 ☐ executed on \_\_\_\_\_  
                 ☒ Serial No. 10/633,337 filed August 1, 2003

as well as in and to (a) all improvements and modifications of the above-identified invention or inventions, (b) the above-identified application and all other applications for Letters Patent of the United States and countries foreign thereto for above-identified invention or inventions and all improvements and modifications thereof, (c) all Letters Patent which may issue from said applications in the United States and countries foreign thereto, (d) all divisions, continuations, reissues, and extensions of said applications and Letters Patent, and (e) the right to claim for any of said applications the full benefits and priority rights under the International Convention and any other international agreement to which the United States adheres; such right, title, and interest to be held and enjoyed by ASSIGNEE, its successors and assigns, to the full end of the term or terms for which any and all such Letters Patent may be granted as fully and entirely as would have been held and enjoyed by ASSIGNOR had this Assignment not been made.

ASSIGNOR HEREBY AUTHORIZES ASSIGNEE to file patent applications in any or all countries on the above-identified invention or inventions in the name of the undersigned or in the name of ASSIGNEE or otherwise as ASSIGNEE may deem advisable under the International Convention or otherwise.

ASSIGNOR HEREBY AUTHORIZES AND REQUESTS the Commissioner of Patents and Trademarks to issue said Letters Patent to ASSIGNEE as assignee of the entire interest, for the sole use and benefit of ASSIGNEE, its successors and assigns.

ASSIGNOR HEREBY AGREES (a) to communicate to ASSIGNEE, its successors and assigns, or their representative or agents, all facts and information known or available to

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ASSIGNOR respecting said invention or inventions, improvements, and modifications including evidence for interference, reexamination, reissue, opposition, revocation, extension, or infringement purposes or other legal, judicial, or administrative proceedings, whenever requested by ASSIGNEE; (b) to testify in person or by affidavit as required by ASSIGNEE, its successors and assigns, in any such proceeding in the United States or a country foreign thereto; (c) to execute and deliver, upon request by ASSIGNEE, all lawful papers including, but not limited to, original, divisional, continuation, and reissue applications, renewals, assignments, powers of attorney, oaths, affidavits, and declarations, depositions; and (d) to provide all reasonable assistance to ASSIGNEE, its successors and assigns, in obtaining and enforcing proper title in and protection for said invention or inventions, improvements, and modifications under the intellectual property laws of the United States and countries foreign thereto.

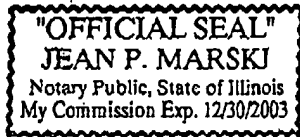
ASSIGNOR HEREBY REPRESENTS AND WARRANTS that ASSIGNOR has the full and unencumbered right to sell, assign, and transfer the interests sold, assigned, and transferred herein, and that ASSIGNOR has not executed and will not execute any document or instrument in conflict herewith.

ASSIGNOR HEREBY GRANTS to the law firm of **Foley & Lardner** the power and authority to insert in this Assignment any further identification which may be necessary or desirable to comply with the rules of the U.S. Patent and Trademark Office for recordation of this Assignment.

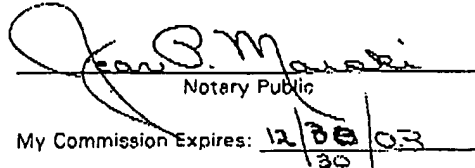
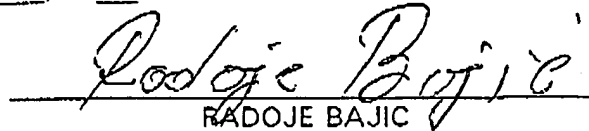
ASSIGNOR UNDERSTANDS AND AGREES that the attorneys and agents of the law firm of **Foley & Lardner** do not personally represent ASSIGNOR OR ASSIGNOR's legal interests, but instead represent the interests of ASSIGNEE; since said attorneys and agents cannot provide legal advice to ASSIGNOR with respect to this Assignment, ASSIGNOR acknowledges its right to seek its own independent legal counsel.

Executed this 3rd day of November, 2003.  
JUGOSLAV KOKOTOVICState of Illinois )  
County of Cook ) ss.

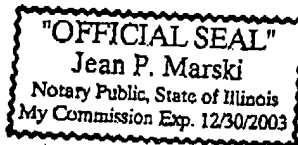
On this 3rd day of November, 2003, before me, a notary public in and for said county, appeared JUGOSLAV KOKOTOVIC, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, and he/she acknowledged that he/she signed, sealed, and delivered the said instrument as his/her free and voluntary act for the uses and purposes therein set forth.



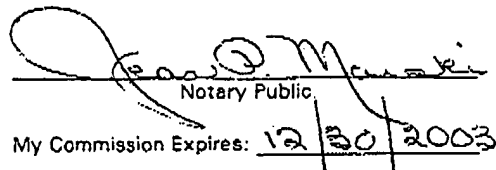
(Seal)

  
Notary Public  
My Commission Expires: 12/30/03Executed this 6 day of August, 2003  
RADOJE BAJICState of Illinois )  
County of Cook ) ss.

On this 6 day of August, 2003, before me, a notary public in and for said county, appeared RADOJE BAJIC, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, and he/she acknowledged that he/she signed, sealed, and delivered the said instrument as his/her free and voluntary act for the uses and purposes therein set forth.



(Seal)

  
Notary Public  
My Commission Expires: 12/30/2003

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Executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

STEVEN TISMAState of \_\_\_\_\_ )  
County of \_\_\_\_\_ ) ss.

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, a notary public in and for said county, appeared STEVEN TISMA, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, and he acknowledged that he signed, sealed, and delivered the said instrument as his free and voluntary act for the uses and purposes therein set forth.

Notary Public

My Commission Expires: \_\_\_\_\_

(Seal)

Executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

PETAR TISMAState of \_\_\_\_\_ )  
County of \_\_\_\_\_ ) ss.

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, a notary public in and for said county, appeared STEVEN TISMA, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, and he acknowledged that he signed, sealed, and delivered the said instrument as his free and voluntary act for the uses and purposes therein set forth.

Notary Public

My Commission Expires: \_\_\_\_\_

(Seal)